



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAR 12 2009

Ezra W. Reese
Perkins Coie LLP
607 14th St. NW, Suite 800
Washington, DC 20005

RE: MUR 6026
Nevada State Democratic
Party and Jan Churchill, in
her official capacity as
Treasurer

Dear Mr. Reese:

On June 25, 2008, the Federal Election Commission notified your clients, the Nevada State Democratic Party and Jan Churchill, in her official capacity as Treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On March 4, 2009, the Commission found, on the basis of the information in the complaint, and information provided by your client, that there is no reason to believe the Nevada State Democratic Party and Jan Churchill, in her official capacity as Treasurer, violated 2 U.S.C. §§ 432(b), 432(c), 434(b), or 441a(f). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's no reason to believe findings, is enclosed for your information.

If you have any questions, please contact Joshua Smith, the attorney assigned to this matter at (202) 694-1624.

Sincerely,

Ana Peña-Wallace
Acting Assistant General Counsel

Enclosure
Factual and Legal Analysis

20090312

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

Respondent: Nevada State Democratic Party and Jan Churchill,
in her official capacity as Treasurer

MUR: 6026

I. INTRODUCTION

Complainant Michael Zahara, a former Nevada State Democratic Party board member, alleges that the Nevada State Democratic Party and Jan Churchill, in her official capacity as Treasurer ("NSDP"), violated the Act by failing to maintain adequate records or report salary payments and travel reimbursements made by the NSDP to Ms. Churchill. Additionally, Complainant alleges that Ms. Churchill has accepted, at her home address, contributions to the NSDP from Berkley for Congress instead of having the contributions sent to official NSDP offices. Complainant contends that this is improper because Ms. Churchill acts as both Treasurer of the NSDP as well as an employee of Representative Shelley Berkley. Finally, Complainant alleges that the NSDP received excessive contributions from Berkley for Congress, in violation of the Act.

As discussed below, the Commission finds no reason to believe that the Nevada State Democratic Party and Jan Churchill, in her official capacity as Treasurer, violated 2 U.S.C §§ 432(c), 434(b), 432(b), or 441a(f).

II. FACTUAL AND LEGAL ANALYSIS

A. Failure to Maintain Adequate Records and Report Salary Payments and Travel Expenses

Complainant alleges that Ms. Churchill distributed money to herself from NSDP accounts without authorization. Here, Ms. Churchill received periodic payments from

1 NSDP.¹ According to FEC filings, the NSDP made 43 bi-monthly disbursements to Ms.
2 Churchill from December 30, 2005 until July 31, 2007. The disbursements totaled
3 \$25,168.79, and each individual disbursement ranged from \$571.58 to \$572.25. Ms.
4 Churchill also received two payments on October 5, 2007 from the NSDP, totaling
5 \$348.50, for "Travel Expenses."

6 Both the NSDP and Ms. Churchill assert that the payments were for legitimate
7 committee expenses, and there is no allegation or information suggesting that the
8 committee failed to maintain adequate records or report salary payments and travel
9 reimbursements to Ms. Churchill. Therefore, there is no reason to believe that the
10 Nevada State Democratic Party and Jan Churchill, in her official capacity as Treasurer,
11 violated 2 U.S.C. §§ 432(c) or 434(b).

12 **B. Receipt of Contributions at Home**

13 Complainant further alleges that Ms. Churchill received contributions from
14 Representative Berkley to the NSDP at her home address, rather than at NSDP offices.
15 There is no specific statute or regulation, however, governing contributions to state and
16 local political committees sent to the treasurer's home address. Under 2 U.S.C.
17 § 432(b)(1)-(3), all contributions received by an authorized committee must be given to
18 the treasurer, and must be segregated from individual funds with no commingling.
19 Similarly, 2 U.S.C. § 432(c) requires the committee treasurer to keep accurate records of
20 contributions. Here, there is no allegation that Ms. Churchill commingled contributions
21 received from Berkley for Congress with her personal funds, nor does the complaint

¹ Ms. Churchill also received salary disbursements from Rep. Shelley Berkley. See Janet D Churchill, Congressional Staffer, *Salary Data*, retrieved from http://www.legistorm.com/person/Janet_D_Churchill/10552.html. In 2007, Ms. Churchill was paid \$53,412.54. For the 2006 fiscal year she was paid \$51,272.28, and in 2005 Ms. Churchill was paid \$48,177.00.

1 allege that Ms. Churchill kept inaccurate records of these contributions. Therefore, there
2 is no reason to believe that the Nevada State Democratic Party and Jan Churchill, in her
3 official capacity as Treasurer, violated 2 U.S.C. §§ 432(b) or 432(c).

4 **C. Excessive Contributions**

5 Finally. Complainant asserts that “hefty donations” from Representative Berkley
6 to the state and local party committees “leaves an impression” that Representative
7 Berkley is subsidizing Ms. Churchill’s unauthorized salary and travel reimbursements.
8 According to FEC disclosure reports, Berkley for Congress has contributed \$415,725.00
9 to the NSDP since 2006, including \$190,000 in 2008, \$25,000 in 2007, and \$200,725 in
10 2006. Since 2002, the first year of contributions, Berkley for Congress has donated over
11 \$670,000. Representative Berkley, however, did not make any personal contributions to
12 the NSDP.

13 Under 2 U.S.C. § 439a(a)(4), a candidate’s principal committee may transfer
14 unlimited funds to state or local party committees. *See also* 11 C.F.R. § 113.2(c);
15 AO 2004-22 (Bereuter for Congress). Therefore, because the NSDP did not receive
16 excessive contributions, there is no reason to believe that the Nevada State Democratic
17 Party and Jan Churchill, in her official capacity as Treasurer, violated 2 U.S.C. § 441a(f).

18 **III. CONCLUSION**

19 Based on the foregoing, the Commission finds no reason to believe that the
20 Nevada State Democratic Party and Jan Churchill, in her official capacity as Treasurer,
21 violated 2 U.S.C §§ 432(c), 434(b), 432(b), or 441a(f).